

§ 1726.302

is not acceptable except where indicated in §1726.304(c).

(c) *Amendment.* Where a borrower has entered into a contract in the form required by this part, no change may be made in the terms of the contract, by amendment, waiver or otherwise, without the prior written approval of RUS.

(d) *Waiver.* RUS may waive for good cause, on a case by case basis, the requirements imposed on a borrower pursuant to this part. Borrowers seeking a waiver by RUS must provide RUS with a written request explaining the need for the waiver. Waiver requests should be made prior to issuing the bid package to bidders.

(e) *Violations.* A failure on the part of the borrower to use listed contracts as prescribed in this part is a violation of the terms of its loan agreement with RUS and RUS may exercise any and all remedies available under the terms of the agreement or otherwise.

[63 FR 58286, Oct. 30, 1998]

§ 1726.302 Notice and publication of listed contract forms.

(a) *Notice.* Upon initially entering into a loan agreement with RUS, borrowers will be provided with all listed contract forms. Thereafter, new or revised listed contract forms promulgated by RUS, including RUS approved exceptions and alternatives, will be sent by regular or electronic mail to the address of the borrower as identified in its loan agreement with RUS.

(b) *Availability.* Listed contract forms are available from either RUS or the Government Printing Office (GPO), as indicated in §1726.304. Interested parties may obtain the forms from: Rural Utilities Service, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW., Washington DC 20250-1522, telephone number (202) 720-8674, or the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, telephone number (202) 512-1800. The listed contract forms can be found in §1724.304(c), List of Required Contract Forms.

[63 FR 58287, Oct. 30, 1998]

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§ 1726.303 Promulgation of new or revised contract forms.

RUS may, from time to time, undertake to promulgate new contract forms or revise or eliminate existing contract forms. In so doing, RUS shall publish notice of rulemaking in the FEDERAL REGISTER announcing, as appropriate, a revision in, or a proposal to amend §1726.304, List of Electric Program Standard Contract Forms. The amendment may change the existing identification of a listed contract form; for example, changing the issuance date of a listed contract form or by identifying a new required contract form. The notice of rulemaking will describe the new standard contract form or the substantive change in the listed contract form, as the case may be, and the issues involved. The standard contract form or relevant portions thereof may be appended to the supplementary information section of the notice of rulemaking. As appropriate, the document shall provide an opportunity for interested persons to provide comments. A copy of each such FEDERAL REGISTER document will be sent by regular or electronic mail to all borrowers.

[63 FR 58287, Oct. 30, 1998]

§ 1726.304 List of electric program standard contract forms.

(a) *General.* This section contains a list of RUS electric program standard contract forms. Paragraph (c) of this section contains the list of required contract forms, *i.e.*, those forms of contracts that borrowers are required to use by the terms of their RUS loan agreements as implemented by the provisions of this part. Paragraph (d) of this section sets forth the list of guidance contract forms, *i.e.*, those forms of contracts provided as guidance to borrowers in the construction of their systems. See §1726.302(b) for availability of these forms.

(b) *Issuance date.* Where required by this part to use a standard form of contract in connection with RUS financing, the borrower shall use that form identified by issuance date in the List

of Required Contract Forms in paragraph (c) of this section, as most recently published as of the date the borrower issues the bid package to bidders.

(c) *List of required contract forms.* (1) RUS Form 168b, Rev. 2-95, Contractor's Bond. This form is used to obtain a surety bond and is included in RUS Forms 200, 201, 203, 257, 764, 786, 790, 792, 830, and 831.

(2) RUS Form 168c, Rev. 2-95, Contractor's Bond (less than \$1 million). This form is used in lieu of RUS Form 168b to obtain a surety bond when contractor's surety has accepted a Small Business Administration guarantee. This form is available from RUS.

(3) RUS Form 180, Rev. 2-95, Construction Contract Amendment. This form is used to amend distribution line construction contracts. This form is available from RUS.

(4) RUS Form 181, Rev. 2-95, Certificate of Completion, Contract Construction for Buildings. This form is used for the closeout of RUS Form 257. This form is available from RUS.

(5) RUS Form 187, Rev. 2-95, Certificate of Completion, Contract Construction. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.

(6) RUS Form 198, Rev. 2-95, Equipment Contract. This form is used for equipment purchases. This form is available from RUS.

(7) RUS Form 200, Rev. 2-95, Construction Contract—Generating. This form is used for generating plant construction or for the furnishing and installation of major items of equipment. This form is available from RUS.

(8) RUS Form 201, Rev. 2-95, Right-of-Way Clearing Contract. This form is used for distribution line right-of-way clearing work which is to be performed separate from line construction. This form is available from RUS.

(9) RUS Form 203, Rev. 2-95, Transmission System Right-of-Way Clearing Contract. This form is used for transmission right-of-way clearing work which is to be performed separate from line construction. This form is available from RUS.

(10) RUS Form 213, Rev. 2-95, Certificate ("Buy American"). This form is used to document compliance with the

"Buy American" requirement. This form is available from RUS.

(11) RUS Form 224, Rev. 2-95, Waiver and Release of Lien. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.

(12) RUS Form 231, Rev. 2-95, Certificate of Contractor. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.

(13) RUS Form 238, Rev. 2-95, Construction or Equipment Contract Amendment. This form is used to amend contracts except distribution line construction contracts. This form is available from RUS.

(14) RUS Form 251, Rev. 2-95, Material Receipt. This form is used to document receipt of owner furnished materials and is included in RUS Forms 764, 830, and 831. Electronic reproduction is acceptable for RUS Form 251.

(15) RUS Form 254, Rev. 2-95, Construction Inventory. This form is used for the closeout of RUS Forms 203, 764, 830, and 831. This form is available from RUS. Electronic reproduction is acceptable for RUS Form 254.

(16) RUS Form 257, Rev. 2-95, Contract to Construct Buildings. This form is used to construct headquarters buildings and other structure construction. This form is available from GPO.

(17) RUS Form 307, Rev. 2-95, Bid Bond. This form is used to obtain a bid bond and is included in RUS Forms 200, 203, 257, 764, 830, and 831.

(18) RUS Form 764, Rev. 2-95, Substation and Switching Station Erection Contract. This form is used to construct substations and switching stations. This form is available from RUS.

(19) RUS Form 786, Rev. 2-95, Electric System Communications and Control Equipment Contract. This form is used for delivery and installation of equipment for system communications. This form is available from RUS.

(20) RUS Form 790, Rev. 2-95, Distribution Line Extension Construction Contract (Labor and Materials). This form is used for limited distribution construction accounted for under work order procedure. This form is available from GPO.

(21) RUS Form 792, Rev. 2-95, Distribution Line Extension Construction

Contract (Labor Only). This form is used for limited distribution construction accounted for under work order procedure. This form is available from GPO.

(22) RUS Form 792b, Rev. 2–95, Certificate of Construction and Indemnity Agreement. This form is used for the closeout of and is included in RUS Forms 201, 790, 792.

(23) RUS Form 792c, Rev. 2–95, Supplemental Contract for Additional Project. This form is used to amend other contracts and is included in RUS Forms 201, 790, 792.

(24) RUS Form 830, Rev. 2–95, Electric System Construction Contract (Labor and Materials). This form is used for distribution and transmission line project construction. This form is available from GPO.

(25) RUS Form 831, Rev. 2–95, Electric Transmission Construction Contract (Labor and Materials). This form is used for transmission line project construction. This form is available from GPO.

(d) *List of guidance contract forms.* (1) RUS Form 172, Rev. 9–58, Certificate of Inspection, Contract Construction. This form is used to notify RUS that construction is ready for inspection. This form is available from RUS.

(2) RUS Form 173, Rev. 3–55, Materials Contract. This form is used for distribution, transmission, and general plant material purchases. This form is available from RUS.

(3) RUS Form 274, Rev. 6–81, Bidder’s Qualifications. This form is used to document bidder’s qualifications. This form is available from RUS.

(4) RUS Form 282, Rev. 11–53, Subcontract. This form is used for subcontracting. This form is available from RUS.

(5) RUS Form 458, Rev. 3–55, Materials Contract. This form is used to obtain generation plant material and equipment purchases not requiring acceptance tests at the project site. This form is available from RUS.

[63 FR 58287, Oct. 30, 1998]

§§ 1726.305–1726.399 [Reserved]

Subpart J—Contract Closeout

§ 1726.400 Final contract amendment.

As needed, a final contract amendment will be prepared and processed in accordance with §1726.24(b) prior to or in conjunction with the closeout of the contract.

§ 1726.401 Material contract closeout.

This section is applicable to contracts executed on RUS Form 173.

(a) *Delivery inspection.* The borrower (acting through its engineer, if applicable) will verify that all materials are delivered in proper quantities, in good condition, and in compliance with applicable specifications.

(b) *Closeout documents.* The borrower (acting through its engineer, if applicable) will obtain from the supplier a “Buy American” certificate, RUS Form 213, any manufacturer’s guarantee(s) and, if applicable, a copy of RUS Form 224, Waiver and Release of Lien. Closeout documents for materials contracts need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

(c) *Final payment.* Upon completion of the actions required under paragraphs (a) and (b) of this section, the borrower shall make final payment to the supplier in accordance with the provisions of the material contract or written purchase order.

§ 1726.402 Equipment contract closeout.

This section is applicable to contracts executed on RUS Form 198.

(a) *Final inspection and testing of equipment.* The borrower (acting through its engineer, if applicable) will perform the final inspection and testing of equipment as appropriate for the specific equipment. The borrower (acting through its engineer, if applicable) will schedule such inspection and testing at a time mutually agreeable to the borrower, engineer, and the supplier or manufacturer. Within thirty (30) days after completion of the inspection and testing, the borrower (acting through